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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,830	01/22/2002	Heinrich Lang	LMX-69-CON	6532

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McNAIR LAW FIRM  
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GREENVILLE, SC 29603-0827

EXAMINER
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SHAHER, RICKY D

ART UNIT	PAPER NUMBER
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2872

MAIL DATE	DELIVERY MODE
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11/16/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/053,830

Applicant(s)

LANG ET AL.

Examiner

Ricky D. Shafer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 11-25 is/are pending in the application.
- 4a) Of the above claim(s) 2-6 and 11-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 18-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

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### DETAILED ACTION

1. Applicant's arguments filed 09/04/2007 have been fully considered but they are not persuasive.

Applicant argues that the respective claims of U.S. Patent 6,554,436 and U.S. Patent 6,352,231 each recite additional features not recited in the claims of the present application 10/053,830 and thus, the claims of the above mentioned patents are patentably distinct from the claims of the present application 10/053,830.

However, the issue at hand is that the claims of the present application 10/053,830 are not patentably distinct from the respective claims of U.S. Patent 6,554,436 and U.S. Patent 6,352,231 and therefore, improperly extends the right to exclude already granted in the above mentioned patents. Note: In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982). Moreover, there is no apparent reason why applicant was prevented from presenting the claims of the present application 10/053,830 in either one or both of the above mentioned patents.

Accordingly, the rejections are repeated and maintained.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 18 and 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sillmann ('925).

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Sillmann discloses a rearview mirror assembly comprising a support structure (1, 2, 9, 19, 33) for mounting the mirror assembly to a vehicle, the support structure including a first part (9) having a substantially permanent connection to the vehicle (via element 2) and a second part (19), wherein the second part of the support structure is disposed on a support arm (4, 33) having a mirror (7), an adjustment mechanism (see the pivotable connection shown in Fig. 8) including a snap in detent (6, 32, 70), a key activated locking mechanism (22 and 25-27) including a key cylinder (25, 26) and a rotatable latch member (22) disposed on the support structure for selectively locking together the first and second parts of the support structure and a removable cover (1), note figures 1 to 9 along with associated description thereof, except for the key activated locking mechanism of the locking mechanism being disposed on the first part of the support structure.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to rearrange and/or reverse the location of locking mechanism of Sillmann such that the key activated locking mechanism including a key cylinder (25,26) and a latch member (22) is positioned on the first part of the support structure, instead of being located the second part of support structure, in order to increase stability, since it has been held that rearranging parts and/or the mere reversal of parts of an invention involves only routine skill in the art. Note In re Japikse, 86 U.S.P.Q. 70; In re Einstein, 8 U.S.P.Q. 167; and In re Kuhle, 188 U.S.P.Q. 7.

As to the limitations that the latch member is hook-shaped, it is well known to use hook-shaped latches in an analogous art of locking mechanisms for the purpose of preventing unauthorized entry/removal. Note the cited prior art of record.

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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the latch member of Sillmann to include a hook, as is commonly used and employed in lock art, in order to increase the strength of the locking mechanism.

As to the limitations that the snap-in detent includes a spring element, it is well known to use spring biased universal ball and socket joints in the same field of endeavor for the purpose of adjusting a mirror with respect to a support structure. Note the cited prior art of record.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify any one of the snap in detents (2, 6, 32 and/or 70) of Sillmann to include a spring biased ball and socket joint, as is commonly used and employed in art, in order to reduce vibrations.

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321 (c) may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1 and 18-25 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 11 and 14 of U.S. Patent No. 6,554,436.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the present application (10/053,830) discloses no additional invention or discovery other than what was already claimed and patented in U.S. Patent 6,554,436 or what would have been obvious to one of ordinary skill in the art at the time the invention was made.

U.S. Patent ('436) discloses a rearview mirror assembly for a vehicle comprising a support structure including a first part (clamp receptacle) and a second part (insertable component) for mounting the mirror assembly to a vehicle, wherein the second part of the support structure is disposed on a support arm having a mirror and a key activated locking mechanism disposed on the support structure for selectively locking together the first and second parts of the support structure, except for the key activated locking mechanism includes a key cylinder and a hook shaped latch member.

It is well known to use key activated locking mechanisms having a key cylinder and a hook shaped latch member in an analogous art of locking mechanisms for the purpose of preventing unauthorized entry/removal. Note the cited prior art of record.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the key activated locking mechanism of U.S. Patent ('436) to

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include a typical key cylinder and hook latch member, as is commonly used and employed in the lock art, in order to prevent unauthorized removal of the support arm and mirror.

As to the limitations of claims 18 and 21-24, it is well known to use spring biased universal ball and socket joints in the same field of endeavor for the purpose of adjusting a mirror with respect to a support structure. Note the cited prior art of record.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the vehicle end of the support arm of U.S. Patent ('436) to include a spring biased universal ball and socket joint, as is commonly used and employed in art, in order to adjust the mirror with respect to the vehicle with reduce vibrations.

6. Claims 1 and 25 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 8 of U.S. Patent No. 6,352,231. Although the conflicting claims are not identical, they are not patentably distinct from each other because the present application (10/053,830) discloses no additional invention or discovery other than what was already claimed and patented in U.S. Patent 6,352,231 or what would have been obvious to one of ordinary skill in the art at the time the invention was made.

U.S. Patent ('231) discloses a rearview mirror assembly for a vehicle comprising a support structure including a first part (clamp reception fixture) and a second part (insertable component) for mounting the mirror assembly to a vehicle, wherein the second part of the support structure serves as a support arm for a rearview mirror and a locking device having a locking cylinder and a detent hook disposed on the support structure for selectively locking together the first and second parts of the support structure, except for the locking device includes a key activated locking mechanism.

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It is well known to use key activated locking mechanisms having a key cylinder and a hook shaped latch member in an analogous art of locking mechanisms for the purpose of preventing unauthorized entry/removal. Note the cited prior art of record.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the locking device of U.S. Patent ('231) to include a typical key activated locking mechanism, as is commonly used and employed in the lock art, in order to prevent unauthorized removal of the support arm and mirror.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky D. Shafer whose telephone number is (571) 272-2320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RDS

November 12, 2007

*Richard S. Self*  
RICHARD S. SELF  
PATENT EXAMINER  
ART UNIT 2872